

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JON D. GRUBER, Individually And On  
Behalf Of All Others Similarly Situated,

Plaintiff,

v.

RYAN R. GILBERTSON; MICHAEL L.  
REGER; GABRIEL G. CLAYPOOL; CRAIG  
M. MCKENZIE; TIMOTHY R. BRADY;  
TERRY H. RUST; PAUL M. COWNIE;  
DAVID J. FELLON; GARY L. ALVORD;  
JAMES L. THORNTON; JAMES RANDALL  
REGER; JOSEPH CLARK RAGER,  
Individually And As A Custodian for W.J.R.  
And J.M.R. (UTMA); WELDON W.  
GILBERTSON, Individually And As  
Custodian for H.G. (UTMA), and as Trustee of  
the RYAN GILBERTSON 2012 FAMILY  
IRREVOCABLE TRUST; THE TOTAL  
DEPTH FOUNDATION; JESSICA C.  
GILBERTSON (a/k/a Jessica Medlin); and  
KELLIE TASTO, As Custodian for H.G.  
(UTMA),

Defendants.

Case No. 16-cv-09727-WHP

**DEFENDANT MICHAEL L. RAGER'S**  
**NOTICE OF MOTION AND MOTION**  
**TO DISMISS THE THIRD AMENDED**  
**COMPLAINT AND MOTION TO**  
**STRIKE**

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that a hearing will be held on June 4, 2019, at 11:00 a.m. before the Honorable William H. Pauley III, in Courtroom 20B of the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007, on the Motion to Dismiss the Third Amended Complaint and Motion to Strike submitted by Defendant Michael L. Reger.

**MOTION**

Pursuant to Rule 12 of the Federal Rules of Civil Procedure, Defendants hereby move the Court for an order dismissing Count III of Plaintiff's Third Amended Complaint (Dkt. 175) against Defendant Michael L. Reger in the above-captioned action, on the grounds that it fails to state a claim for which this Court may grant relief. In addition, Defendant Michael L. Reger moves to strike paragraphs 10, 32, 49, and 178 of the Third Amended Complaint, on the grounds that they are immaterial, impertinent, scandalous, and not based on admissible evidence. This Motion is based upon all of the pleadings, files, records, and proceedings herein, the memorandum of law and exhibits in support of the Motion, and the arguments of counsel.

Dated: April 5, 2019

DORSEY & WHITNEY LLP

By: /s/ James K. Langdon

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*Attorneys for Defendant*  
*Michael L. Reger*

**CERTIFICATE OF SERVICE**

I, James K. Langdon, hereby affirm that on this 5<sup>th</sup> day of April, 2019, I caused the foregoing Defendant Michael L. Reger's Notice of Motion and Motion to Dismiss the Third Amended Complaint and Motion to Strike to be served via this Court's Electronic Case Filing system.

Dated: April 5, 2019

/s/ James K. Langdon

James K. Langdon